

Section 10 - Contents

What Procurements Can Be Made Without Competition?

<u>Sub-Section/Subject</u>	<u>Page</u>	<u>Revision Date</u>
.100 Small Purchases	10-1	2002
.110 Requirements	10-2	
.120 Rationale	10-2	
.130 Guidelines	10-3	
.140 Public Assistance to Individuals	10-4	
.200 Emergency Purchases	10-5	2002
.210 Definition	10-5	
.220 Procedure	10-6	
.230 Documentation and Posting	10-7	
.300 Sole Source Purchases	10-7	2002
.310 Definition	10-7	
.320 Procedure	10-8	
.330 Proprietary - Definition of	10-9	
.400 Purchase of Used Equipment	10-10	2002
.410 Definition	10-10	
.420 Policy	10-11	
.500 State or Local Contracts	10-12	2002
.510 Guidelines	10-12	
.520 Procedure	10-12	
.530 Problems and Complaints	10-14	
.540 List of Available Contracts	10-14	

Index 10-i

Section 10 - Contents (Continued)

<u>Sub-Section/Subject</u>		<u>Revision</u>	
		<u>Page</u>	<u>Date</u>
.600	Purchases From State Agencies	10-15	2002
.610	State Central Warehouse	10-15	
.620	Surplus Property	10-17	
.630	Virginia Department for the Blind and Visually Impaired	10-18	
.640	Virginia Department of Corrections	10-18	
.700	Sheltered Workshops	10-19	2002
.710	Definition	10-19	
.720	Procurements	10-19	
.800	Real Estate Procurements	10-20	2002
.810	General Requirements	10-20	
.820	Lease (Rental) of Real Estate	10-20	
.830	Purchase of Real Estate	10-23	
.900	Donations	10-24	2002
.910	Acceptance	10-24	
.920	After-Acquisition Cost	10-24	

Index 10-ii
Section 10

What procurements can be made without competition?

Sub-Section 10.100 - Small Purchases

Subject 10.110 - Requirements

The VPPA allows public bodies to establish purchase procedures not requiring competitive sealed bids or competitive negotiation for single or term contracts not expected to exceed \$50,000. This includes:

- Goods (equipment, materials and supplies).
- Non-professional services.
- Microcomputers and related peripheral equipment and services.

EXCEPTION #1: Professional services must be procured by the Competitive Negotiations (formal RFP) procurement method if the anticipated requirement is \$30,000 or more.

EXCEPTION #2: Non-Professional services and goods require a written solicitation to a minimum of four bidders or offerors if the procurement is expected to exceed \$30,000. These procurements may utilize informal solicitation methods if the dollar amount of the procurement is not expected to exceed \$50,000.

These procedures must be in writing and must provide for competition wherever practicable. (See Section 15.200 of this Manual.)

Code of Virginia, Sections 2.2-4303 G & H

Subject 10.120 - Rationale

The VPPA recognizes that time and effort is best spent on procurement projects that will result in large expenditures of funds and/or where there is potential for obtaining greater benefits for the purchaser.

Example It may be reasonable to accept a single quote of \$500 for miscellaneous items from a local hardware store rather than taking time to obtain other quotes which might result in minimal savings.

Exception If the single quote appears unreasonable, one or two other quotes should be obtained.

Subject 10.130 - Policies

Public bodies should establish, in writing, procurement policies for procurements of less than \$50,000 and professional services of less than \$30,000. These policies should establish levels of competition based upon the expected dollar amount of the procurement.

Recommended Procedures:

<u>Expected Dollar Amount of Procurement</u>	<u>Procurement Method</u>
Over \$50,000 for goods and non-professional services	Utilize formal IFB or RFP (refer to Sections 15.300 and 15.400).
Over \$30,000 for professional services	Utilize formal RFP method with specific professional services negotiation procedures (refer to Section 15.500).
Over \$15,000 for goods, professional services and non-professional services	Utilize informal written quotations (refer to Sub-Section 15-220) to informal RFP (refer to Sub-Section 15-225).
Over \$2,000 – If the procurement is not conducted by a certified purchasing agent.	Utilize telephone quotations (Sub-Section 15.210) or informal written quotations (see above).
Over \$5,000 - If the procurement is conducted by certified purchasing agent.	Utilize telephone quotations (Sub-Section 15.210) or informal written quotations (see above).
Less than \$2,000 (or less than \$5,000 if conducted by certified purchasing agent).	Single quote (no competition required); however, competition should be obtained if it appears that quote may not be fair and reasonable.

Computer

Procurements NOTE: The procedures used to purchase computer hardware/software are the same as the procedures for purchasing other supplies and equipment. Technical assistance regarding computer hardware, software and services may be obtained by calling the Community Information System and Data Management Section of DMHMRSAS at (804) 786-4148.

Code of Virginia, Section 2.2-4303 G

Order Splitting: It is not acceptable procurement practice to split an order into two or more separate orders in order to avoid the degree of competition or type of procurement that would be required due to the dollar value of the total requirement. Order splitting for this purpose restricts competition and, therefore, may result in higher costs to the CSB.

Subject 10.140 - Public Assistance to Individuals

CSBs may purchase goods or personal services for individual recipients of public assistance programs without competition. This exemption does not apply to the bulk procurement of goods and services.

Code of Virginia, Section 2.2-4345.14

INTERPRETATION: If it is anticipated that a specific service is (or will be) required by several clients over a period of time, it is considered "bulk" services and, if competition is (or could be) available, must be competed.

Sub-Section .200 - Emergency Purchases

Subject 10.210 - Definition

An emergency is an occurrence of a serious and urgent nature that demands immediate attention. It often endangers life or property.

Example of Emergency Situation:

- Air conditioning in a building housing clients whose health is adversely affected by overheating.

Example of Non-Emergency Situation:

- Air conditioning in an office building which can be maintained in a "reasonably comfortable" condition by opening windows and using fans.

(Continued on next page)

Subject 10.220 - Procedure

An emergency procurement should be handled as follows:

If...	Then...
The procurement needs to be expedited but is not of such a serious and urgent nature that it requires an immediate procurement action.	<p>Expedite using the least time-consuming procedure permitted by the VPPA or CSB procurement policy.</p> <p><u>Example:</u> For emergency procurement over \$50,000, IFB's could be FAXed to six potential suppliers and posted on the Bulletin Board with bid opening in 10 days.</p>
The emergency requires immediate action in order to correct a serious and urgent situation and/or to prevent endangerment to life or property but its cost will be less than the single quote limit.	<p>Obtain one quotation and, if the quotation appears to be fair and reasonable, award a contract.</p>
The emergency endangers life or property and its cost is expected to exceed the single quote limit.	<p>Obtain whatever competition is feasible.</p> <p><u>Example #1:</u> If the emergency does not occur during normal business hours and only one vendor can be contacted, award a contract to that vendor.</p> <p><u>Example #2:</u> If the emergency occurs during normal business hours and phone quotes can be obtained, award to the lowest bidder who can meet the time and performance requirements.</p>

Subject 10.230 - Documentation and Posting

A written determination stating the nature of the emergency and why the particular vendor was chosen must be included in the procurement file. If the value of the emergency procurement exceeds \$15,000, a copy of this determination must be posted on the procurement bulletin board for a period of ten (10) days after the procurement.

Code of Virginia, Section 2.2-4303 F

Sub-Section .300 - Sole Source and Proprietary Purchases

Subject 10.310 - Definition - Sole Source

A purchase of goods or service may be determined to be a sole source if there is only one source practicably available. (NOTE: Sole source should not be confused with a *proprietary* purchase. A *proprietary* purchase is one where only one brand is acceptable; but, several dealers or distributors may be able to submit quotations.)

Example of a sole source purchase

- A presentation on the contents of a specific book by it's author.

Example of a purchase that is not sole source

- A replacement part for an HVAC system. Several dealers can offer the same item. Therefore, it is proprietary, not sole source. Also, generic replacements may also be available.

Suggested Statement on IFB or RFP: "The product offered on this bid (proposal) must be compatible with the following existing equipment: (List brand and model) _____. The cost of any adapting or connecting equipment necessary to integrate the equipment offered into our existing equipment must be included in your bid (proposal)."

Subject 10.320 - Procedure

The following determinations need to be made before declaring a product or service to be available from only one source:

If...	Then...
<p>The required item is a component of a system and its estimated cost exceeds the single quote limit.</p> <p><u>Example:</u> A compressor for an air conditioning system or a certain type of software.</p>	<p>Determine if other brands of components will guarantee compatibility with that system.</p>
<p>Other brands are <u>not</u> compatible.</p>	<p>Determine if the required brand is available from more than one source, i.e., dealers or distributors.</p>
<p>The required brand is available from dealers or distributors.</p>	<p>It is proprietary—not sole source. Procure competitively and state that quotes will be acceptable only on the specified make and model.</p>
<p>The required brand is available from several dealers; however, only one is located in Virginia.</p>	<p>Determine if any required service can be satisfactorily handled by the out-of-state suppliers. If so, consider it to be a proprietary procurement (not sole source) and request competitive quotations.</p> <p><i>(Continued on next page)</i></p>

If...	Then...
<p>Page 10-8</p> <p>Only one brand or service provider is acceptable and only one source is practicably available.</p> <p style="text-align: center;">OR</p> <p>Only one provider of a specific service is located sufficiently close to the area in which the service is to be provided to be able to provide adequate service.</p>	<p>Write a sole source determination.</p> <p>Policy: The VPPA requires sole source determinations to be "posted in a designated public area or published in a newspaper of general circulation".</p> <p>Recommendation: Sole source determinations for procurements of \$15,000 or more should be posted on the procurement bulletin board.</p>

Code of Virginia, Section 2.2-4303 E

Subject 10.330 - Definition - Proprietary

A proprietary specification or scope of work restricts the acceptable product or service to that of one or more manufacturers or vendors. Proprietary purchases are not considered non-competitive since competition can usually be obtained from various dealers or distributors. See Subject 15.140 for more information.

Sub-Section 10.400 - Purchase of Used Equipment

Subject 10.410 - Definition

Equipment which has been previously owned and used. It is usually offered "as is". Demonstration or factory rebuilt or remanufactured equipment is not considered used since it must meet a specified standard.

Example of Used Equipment:

- A drill press that is no longer needed by a local manufacturing plant.

Examples of Equipment that cannot be purchased as used equipment:

- Remanufactured water pump. (Since remanufactured equipment meets a specified standard, competitive quotes can be obtained.)

Note: The Virginia Department of General Services/Division of Purchases and Supply maintains a term contract for used vehicles.

Subject 10.420 - Policy

The VPPA does not provide procedures for the purchase of used equipment; therefore, all used equipment estimated to cost \$50,000 or more, must be purchased competitively or declared to be a sole source. The following policy is consistent with Commonwealth of Virginia procurement policy and is required for CSB use:

If...	Then...
The equipment is reconditioned, remanufactured or is a demonstration item.	Procure competitively (if the cost exceeds the single quote limit).
The equipment is used and the cost is <u>less</u> than \$50,000.	Negotiate the procurement. Place a written document in the procurement file stating: <ul style="list-style-type: none"> • The equipment has been inspected. • It meets the needs of the CSB. • The price is fair and reasonable.
The equipment is used and the cost is <u>more</u> than \$50,000.	If, because of differences in age and condition, competition is not practicable, negotiate a sole source procurement. Note #1: A written determination must be placed in the contract file stating that there is only one source practicable available for procuring the used equipment which meets the required condition of maintenance and/or operational capability. Note #2: Refer to the posting requirement for sole source procurements in Section 10.300 of

If...	Then...
	this Manual.

Page 10-11

Sub-Section 10.500 - State or Local Contracts

Subject 10.510 - Guidelines

Term contracts issued by the Commonwealth of Virginia and various local governments often contain provisions allowing other public bodies within their geographical boundaries to place orders against these contracts. Use of these contracts often results in:

- Cost savings due to the greater purchasing power of the Commonwealth or local government.
- Time savings since the competitive requirement of the VPPA was satisfied prior to the award of the contract.

Subject 10.520 - Procedure

Most contracts require that the CSB simply write a purchase order to the contract vendor and reference the contract number. Other contracts may require that the CSB obtain permission from the issuing authority prior to use.

- Follow the instructions contained in the contract notices. Many contracts stipulate minimum order quantities,

(Continued on next page)

Page 10-12

- Obtain copies of contract notices and a list of available contracts from the following offices:

Types of Contracts	Copies obtained from:
Consulting Laboratory Services Specialized Equipment	Commonwealth of Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services Office of Administrative Services P. O. Box 1797 Richmond, Virginia 23214 Phone: (804) 786-3915
Automobiles and light trucks, Office, Medical, Laboratory, Janitorial, Electrical Equipment & Supplies, Food, Clothing, Paper, Chemicals, Textiles, Lawn Mowers, Computer equipment.	Commonwealth of Virginia Department of General Services Division of Purchases and Supply P. O. Box 1199 Richmond, Virginia 23209 Phone: (804) 786-8873 (Contract Distribution)
Long Distance Telephone Service.	Commonwealth of Virginia Department of Information Tech- nology Acquisition Services Division 110 South Seventh Street Richmond, Virginia 23219 Phone: (804) 371-5945
Trucks (3/4 ton and over), Earth moving equipment.	Commonwealth of Virginia Department of Transportation Administrative Services Division 1221 East Broad Street Richmond, Virginia 23219

Revised 2002

Types of Contracts	Copies obtained from:
	Phone: (804) 786-2724

Page 10-13

Subject 10.530 - Problems and Complaints

- The CSB should attempt to resolve any problems with state-initiated contracts and/or delivery failures with the contractor. The use of the Complaint to State Vendor form is encouraged. This form is available from the Virginia Department of General Services/Division of Purchases and Supply (DGS/DPS).
- Persistent or major problems and/or delivery failures should be reported for resolution to the agency which issued the contract.

Subject 10.540 - List of Available Contracts

A list of contracts that are available to CSBs is available on the following web sites:

- DMHMRSAS Contracts: www.dmhmrzas.virginia.gov.
- DGS/DPS Contracts: www.dgs.virginia.gov/dps.

Sub-Section 10.600 - Purchases from State Agencies

Subject 10.610 - Virginia Distribution Center (VDC)

Definition - The Virginia Distribution Center (formerly Central Warehouse) is operated by the Commonwealth of Virginia, Department of General Services, Division of Purchases and Supply. VDC stocks:

- Food - Canned, Dry, and Frozen
- Janitorial Supplies
- Paint
- Paper Products (non-office type)

NOTE: VDC sells most items in minimum quantities of one case; therefore, some CSBs may find it impractical to purchase that much of an item; however, in that case, the CSB may wish to participate with one or more other governmental facilities in placing one large order with VDC. Also, it may be possible for VDC to arrange for a State agency to receive a small VDC order for a CSB.

Rationale - CSBs may place orders for items stocked in the Virginia Distribution Center. Advantages of using VDC are:

- Lower prices due to the greater buying power of VDC and the fact that they purchase in bulk quantities.
- Consistent quality due to the emphasis by VDC on specification development and quality control.
- Decreased delivery time due to items being maintained in stock.

- The competitive requirement of the VPPA has been satisfied during the VDC's procurement process.

Page 10-15

- Training, service, and dispensing equipment are available from VDC at no additional cost for many of the products stocked, such as:
 - ♦ Floor care products,
 - ♦ Dish washing compounds,
 - ♦ Odor Counteractants and
 - ♦ Antimicrobial, waterless hand rinse.
- Orders may either be picked up at VDC or the warehouse will deliver the order for a reasonable upcharge.

Procedure - Order may be placed directly with VDC.

- Follow the instructions contained in the VDC catalog which is on the VDC web page: www.dgs.virginia.gov/dps.
- Place orders on the VDC web page or contact:

Commonwealth of Virginia
Department of General Services
Division of Purchases and Supply
Virginia Distribution Center
P. O. Box 99
2400 Riley Ridge Road
Sandston, Virginia 23150
Phone: (804) 328-3232
FAX: (804) 328-3222
E-Mail: VDC_web@dgs.virginia.gov

Problems and Complaints - Contact the VDC for resolution of any problems and/or delivery failures.

Page 10-16

Subject 10.620 - Surplus Property

Purchases of property declared surplus by local, state or federal governments is often a cost effective way to obtain needed items at considerable savings over the price of new goods.

- State and Federal surplus property may be obtained through the:
 - Commonwealth of Virginia
 - Department of General Services
 - Division of Purchases and Supply
 - Surplus Property
 - Darbytown Road
 - Richmond, Virginia 23231
 - Phone: (804) 236-3675 (Administration)

- State and Federal surplus property is stored and displayed at distribution centers in:
 - ◆ Richmond - Darbytown Road.
Phone: (804) 236-3669 – State and Federal

 - ◆ Wytheville - 4 1/2 Street.
Phone: (540) 228-6803 – State and Federal

Contact the Surplus Property Section as a signature card must be on file prior to making a purchase.

Subject 10.630 - Virginia Department for the Blind and Visually Impaired

CSBs may purchase items produced by the Virginia Department for the Blind and Visually Impaired without competition. These items include:

- Writing instruments.
- Mattresses.
- Mops and Brooms.

Orders may be placed and a catalog obtained by contacting:

Commonwealth of Virginia
Department for the Blind and Visually Impaired
Industries for the Blind
397 Azalea Avenue
Richmond, Virginia 23227-3697
Phone: (804) 295-5168
Web Address: www.dbvi.virginia.gov

Subject 10.640 - Virginia Department of Corrections

CSBs may purchase items produced by the Virginia Department of Corrections (Correctional Enterprises and CORPRINT) without competition. These items include:

- Furniture, office, lounge and dormitory.
- Signs
- Printing (CORPRINT)
- Institutional clothing

Orders may be placed and a catalog obtained by contacting:

Commonwealth of Virginia
Department of Corrections
Correctional Enterprises
8030 White Bark Terrace
Richmond, Virginia 26237
Phone: (804) 743-4100
Web Address: www.vadoc.virginia.gov

Page 10-18

Sub-Section 10.700 - Sheltered Workshops

Subject 10.710 – Definition

Sheltered workshops are work-oriented rehabilitative facilities with controlled working environments and individual goals that utilize work experience and related services for assisting handicapped persons to progress toward normal living and productive status.

Code of Virginia, Section 2.2-4301

Subject 10.720 - Procurements

Procurements of goods and services may be made without competition from non-profit sheltered workshops or other non-profit organizations which offer transitional or supported employment services for the handicapped without competition. Community Services Boards which are considering the purchase of goods or services from sheltered workshops should determine whether the goods and services:

- Are of acceptable quality,
- Can be supplied within the time required and
- Can be purchased within ten percent (10%) of fair market value.

Note: Fair market value should be determined by the price paid by the CSB or other procurement offices for similar quantities within the past six months or by an informal price check of competing sources. The rule of ten percent is based upon the regulations set forth by the Virginia Department of General Services/Division of Purchases and Supply for Commonwealth of Virginia agencies.

Code of Virginia, Section 2.2-4344.1.b
--

Page 10-19

Sub-Section 10.800 - Real Estate - Leased or Rental Property

Subject 10.810 - General Requirements

The Virginia Public Procurement Act does not require real estate (either lease or purchase) to be acquired by competitive procurement.

Clarification: Improvements to or construction on existing real estate must be competitively procured.

Policy #1: The acquisition of real estate must be accomplished with the maximum feasible competition.

Policy #2: The acquisition of real estate must be handled as a fixed asset (capital outlay) project.

Policy #3: CSBs should not acquire (through lease or purchase) real estate for the purpose of constructing improvements when such improvements fall within a 100 year flood plain.

Subject 10.820 - Lease (Rental) of Real Estate

CSBs seeking to lease real estate should identify the most economical, efficient and suitable space within the desired geographical area. The following factors should be considered:

**Needs
Determi-
nation**

Determine the space needs of the facility for the present and project these needs through the anticipated life of the lease.

Page 10-20

Competition 2,500 Square Feet and Under:

- Survey the market to determine what is available and appropriate.
- Contact (if possible and practical) at least four sources for leasing property.

Over 2,500 Square Feet:

- Advertise for formal proposals. Place at least two advertisements in newspaper(s) having circulation in the desired area.
- Send requests for quotations to at least four (4) real estate firms that actively market real estate in the desired geographical area.
- Requests for quotations should include the following information:
 - ◆ CSB name, mailing address and contact person.
 - ◆ Purpose for and type of space (office, clinic, warehouse, etc.)
 - ◆ Descriptions by Zip Code of acceptable locations.

- ◆ Minimum square footage of space required and any special floor plan requirements.
- ◆ Effective date of lease.
- ◆ Initial period of lease in years or months.
- ◆ Special requirements (heavy floor loads, parking, special partitions, special utility needs, etc.)
- ◆ Services required (utilities, janitorial, maintenance, etc.).

Page 10-21

- ◆ Method for calculating escalation of rental fees (normally not applicable for leases of three years or less). The standard escalation of rental costs for leases in excess of three years is 50% of the preceding year's increase in the Consumer Price Index (CPI) for Housing.

Exception: Competition is not required for lease periods not exceeding one year.

Lead Time	Advertisements for leased space should be placed four to five months prior to the anticipated date of occupancy.
------------------	--

Energy Costs	Reasonable effort should be made to determine the energy efficiency or cost for each building under consideration if these costs are to be paid by the lessee (occupant). Copies of previous utility bills should be obtained from the owner to help determine energy costs and these costs should be a factor in determining the overall cost of the lease.
---------------------	--

Length of	Normally, leases are executed for periods up to five (5) years.
------------------	---

Revised 2002

Lease

Lease Document

See Appendix K-3 for a suggested lease format.

Page 10-22

Subject 10.830 - Purchase of Real Estate

The procedure to purchase real estate should include the elements of Needs Determination, Energy Costs and Competition as defined in Section .820 - Lease (Rental) of Real Estate. The following are suggested considerations and documentation which should be obtained when purchasing real estate:

- Survey plat of the parcel and a vicinity map indicating easements or rights of way.
- Appraised value. If the purchase price exceeds the appraised value, the justification for exceeding the appraised value (including a copy of the offer from the CSB and the owner's refusal) should be documented.
- Description of any hidden costs or obligations such as ancillary agreements to provide or maintain any roadways.
- Title Examination - A sixty (60) year title examination should be obtained.

Sub-Section 10.900 - Donations

Subject 10.910 - Acceptance

CSBs may accept property (real estate or personal property) that is donated to it by an individual corporation or organization; however, acceptance should be approved by the executive director or the board (whichever is designated in the CSB policy).

Subject 10.920 - After-Acquisition Cost

The after-acquisition cost of the property (maintenance and repair, insurance, site preparation, etc.) should be considered before accepting property.

Page 10-24